

24044. Alleged adulteration and misbranding of ether. U. S. v. 15 Cans of Ether. Tried to the court. Judgment for the claimant. Libel dismissed. (F. & D. no. 32008. Sample no. 49118-A.)

On February 20, 1934, the United States attorney for the Middle District of Georgia, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 15 cans of ether at Macon, Ga., alleging that the article had been shipped in interstate commerce on or about January 11, 1934, by Merck & Co., Inc., from Rahway, N. J., and charging adulteration and misbranding in violation of the Food and Drugs Act. The article was labeled in part: "1 lb. Ether Merck U. S. P. X. Merck & Co., Inc., New York."

Analysis of a sample consisting of 10 cans showed the presence of peroxide in one of the cans examined.

The article was alleged to be adulterated in that it was sold under a name recognized in the United States Pharmacopoeia, its strength, quality, and purity differed from the standard prescribed by that authority, and its own standard was not stated on the label.

Misbranding was alleged in that the statement on the label, "Ether * * * USP X", was false and misleading and deceived and misled the purchaser.

On January 10, 1935, Merck & Company, Inc., having appeared as claimant for the property, the case came on for trial before the court. Evidence on behalf of the Government and the claimant was submitted and argument of counsel heard, at the conclusion of which the court handed down the following judgment (Deaver, *district judge*):

"I find that the United States failed to carry the burden imposed upon it by law. I find that the Government is not entitled to the relief prayed. It is, therefore, *Decreed*, that the prayers of said bill for libel be denied; that the merchandise seized under said libel be delivered to the claimant, Merck & Co., Inc.; and that the libel be dismissed."

M. L. WILSON, *Acting Secretary of Agriculture.*

24045. Misbranding of Dr. G. B. Williams' Pills. U. S. v. 141 Packages of Dr. G. B. Williams' Pills. Default decree of condemnation and destruction. (F. & D. no. 32075. Sample no. 49435-A.)

This case involved an interstate shipment of a drug preparation, the labels of which contained unwarranted curative and therapeutic claims.

On or about March 6, 1934, the United States attorney for the Southern District of Florida, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 141 packages of Dr. G. B. Williams' Pills at Tampa, Fla., alleging that the article had been shipped in interstate commerce on or about February 13, 1934, by the Interstate Drug Co. from Quitman, Ga., and charging misbranding in violation of the Food and Drugs Act as amended.

Analysis showed that the article consisted essentially of compounds of mercury and antimony, and ingredients derived from plant drugs including aloe, podophyllum, and an alkaloidal drug.

The article was alleged to be misbranded in that the following statements regarding its curative or therapeutic effects were false and fraudulent: (Bottle label) "Recommended for * * * biliousness, and all troubles arising from inactive liver. * * * Dose: 1 to 3 every other night at bedtime; children under ten years old, one-half pill in honey or syrup"; (carton) "Recommended for the relief of discomfort due to Biliousness, * * * or any Liver disorder."

On December 22, 1934, no claimant having appeared, judgment of condemnation was entered and it was ordered that the product be destroyed.

M. L. WILSON, *Acting Secretary of Agriculture.*

24046. Misbranding of Nunn's Black Oil Healing Compound. U. S. v. John A. Houghton and George W. Reed (Dr. Nunn's Black Oil Co., Inc.). Plea of guilty. Fine, \$25. (F. & D. no. 32090. Sample no. 35938-A.)

This case involved a drug preparation which had been sold under a guaranty that it complied with the Food and Drugs Act, but which was misbranded, since the label contained unwarranted curative and therapeutic claims, and which was subsequently shipped in interstate commerce.

On October 6, 1934, the United States attorney for the District of Utah, acting upon a report by the Secretary of Agriculture, filed in the district court

an information against John A. Houghton and George W. Reed, copartners, trading as Dr. Nunn's Black Oil Co., Inc. at Salt Lake City, Utah, alleging that on or about November 1, 1932, and January 5, 1933, the said defendants had sold and delivered to the Smith Faus Drug Co., Salt Lake City, Utah, a number of large bottles and small bottles of Nunn's Black Oil Healing Compound; that at the time of sale and delivery the defendants had guaranteed that the article complied with the Federal Food and Drugs Act; and that on December 31, 1932, January 26, and March 20, 1933, a number of large and small bottles of the product, in the identical condition as when received, were shipped in interstate commerce by the Smith Faus Drug Co., from the State of Utah into the State of Colorado; and that it was misbranded in violation of the said act as amended.

Analysis showed that the article consisted of mineral oil and a fixed oil containing a sulphur compound.

The article was alleged to be misbranded in that certain statements in the labeling, regarding its therapeutic and curative effects, falsely and fraudulently represented that it was effective, with regard to the small bottles, as a healing remedy for sores, scratches, and piles; with regard to the large bottles, as a healing remedy for sores, scratches, fistulas, withers, poll evil, piles, scalded heads on children, skin eruptions, colic and bloat; and effective as a remedy for coughs, distemper and bronchitis, in horses and cattle, and as a remedy for roup in chickens.

On November 3, 1934, a plea of guilty was entered and the court imposed a fine of \$25.

M. L. WILSON, *Acting Secretary of Agriculture.*

24047. Misbranding of Ray-X. U. S. v. Ray-X Corporation, Arley R. Hartzog, and Charles A. Henry. Pleas of nolo contendere by defendants Hartzog and Henry; pending as to Ray-X Corporation. Fines, \$200. (F. & D. no. 32105. Sample nos. 4608-A, 26609-A, 36612-A.)

This case was based on interstate shipments of a product labeled with unwarranted curative and therapeutic claims. The article was also labeled to convey the false and misleading impression that it possessed definite radiant energy.

On August 23, 1934, the United States attorney for the Northern District of Ohio, acting upon a report by the Secretary of Agriculture, filed in the district court an information against the Ray-X Corporation, Arley R. Hartzog, and Charles A. Henry, alleging shipment by said defendants in violation of the Food and Drugs Act as amended, on or about February 27, 1933, from the State of Ohio into the State of Indiana, and on or about March 17 and March 31, 1933, from the State of Ohio into the State of Illinois of quantities of Ray-X which was misbranded.

Analyses of samples of the article showed that it consisted of water containing minute proportions of salts in solution.

The article was alleged to be misbranded in that the statement "Ray-X", together with the design and devices of a sun with lines radiating from it, borne on the cases and bottle labels, were false and misleading in that they represented that the article possessed definite radiant energy; whereas it did not possess definite radiant energy. Misbranding was alleged for the further reason that certain statements, designs, and devices regarding the therapeutic and curative effects of the article falsely and fraudulently represented that it was effective to insure new life; effective to insure health; effective as a treatment, remedy and cure for gall stones, infected liver, arthritis, poisons in the system, severe headaches in the back of the head, digestive disorders, bowel trouble, nervous condition, anemia, low blood pressure, general physical disability, stomach ulcers, diabetes, eczema, abscessed kidney, irregular menstruation, streptococcus infection, jaundice, influenza, acute pyelitis, diphtheria, gall bladder infections, duodenal ulcers, gastric ulcer, prostate glandular trouble, tuberculosis, dropsy, fever, super-acidity, infected navel, sinus infection, acute indigestion and all streptococcus infections; and effective as a wonderful blood purifier and wonderful system normalizer.

On September 19, 1934, defendants Hartzog and Henry entered pleas of nolo contendere to the information, and the court imposed a fine of \$100 against each defendant. A final adjudication was not made with respect to the Ray-X Corporation.

M. L. WILSON, *Acting Secretary of Agriculture.*